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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,672	07/17/2006	Richard W. McCoy	18801-540	9573

7590
McDonald Hopkins Co
600 Superior Avenue East
Suite 2100
Cleveland, OH 44114

EXAMINER

OLSON, MARGARET LINNEA

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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04/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,672

Applicant(s)

MCCOY ET AL.

Examiner

MARGARET L. OLSON

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-6, 8, 9, 12-14, 16, 19, 21, 22 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8, 9, 12-14, 16, 19, 21, 22, 26, 28, 29, 31 is/are rejected.
- 7) ☒ Claim(s) 13, 27 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the container side wall exterior surface and the platform side wall exterior surface may be "substantially coplanar", since they must also be nesting.

Claim Objections

3. Claim 21 objected to because of the following informalities: in line 3, "a platform mounting apertures" is a typo. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 5, 9, 14, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sidler (US 4,577,563). Sidler discloses a modular cargo carrier assembly with a cargo container 1 connectable to a vehicle, with a bottom 9 and a

container side wall 7 extending upwardly from a periphery of the bottom. The bottom and sidewall define an interior compartment 3 (figure 1, figure 2). A platform 11 comprises a floor 13 and a platform side wall 41 extending upwardly from a periphery of the floor 13, a shoulder member 43, and the floor and platform side wall define a receiver portion adapted to nestingly support the cargo container thereon (figure 3). A latch 31 with a catch member 37 is attached to the sidewall 7 of the cargo container to engage with the shoulder member to secure the container 1 to the platform side wall (figure 2, figure 3).

With respect to claim 4, the cargo container includes at least one projection 25 extending outwardly from the container bottom periphery.

With respect to claim 5, the platform includes a slot under 29 aligned with and adapted to matingly engage the cargo container projection.

With respect to claim 9, the cargo container includes a cover at 1 (figure 3) attached to an upper end of the container side wall.

With respect to claim 14, Sidler discloses a modular cargo carrier assembly with a cargo container 1 comprising a bottom 9 and a container side wall 7 extending upwardly from a periphery of the bottom, and a projection 37 extending outwardly from the container bottom periphery. The bottom and container side wall define an interior compartment 3. A platform 11 includes a slot 47 aligned with and adapted to matingly engage the cargo container projection. A floor at 13 has a sidewall 41 extending upwardly from a periphery, and defines a receiver portion to nestingly support the cargo container thereon. The projection of the cargo container 37 matingly engages the slot

of the of the platform when the platform is nestingly supporting the cargo container (figure 3).

With respect to claim 16, a latch 31 secures the container to the platform side wall.

With respect to claim 19, the slot defines an opening 47 extending substantially through the platform side wall 41 (figure 2).

6. Claims 14, 22, 28, 29, 31, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Jefferson (US 4,260,085). Jefferson discloses a cargo container 40 comprising a bottom just under 79 and a container side wall extending upwardly from a periphery of the bottom. A projection at 36 and 38 extends outwardly from the container bottom periphery, and the bottom and container side wall define an interior compartment (figure 4, figure 3; column 3, lines 4-7).

With respect to claim 22, the platform and cargo container include an aligned drainage aperture 82 for selective drainage from the cargo container interior compartment to the exterior of the container (figure 3, figure 4, column 3 lines 50-66).

With respect to claim 28, Jefferson discloses a modular cargo carrier assembly with a cargo container 40 comprising a bottom under 79 (figure 4) and a container side wall extending upwardly from a periphery of the bottom, and the bottom and container side wall defining an interior compartment. A platform comprising a floor 28 and a platform side wall 30 extending upwardly from a periphery of said floor define a receiver portion adapted to nestingly support the cargo container thereon. A drainage aperture is located on the platform and a drainage aperture 82/112 on the cargo container is

aligned with the platform drainage aperture for selective drainage from the cargo container interior compartment to the exterior (figure 3, figure 4, column 3 lines 50-66).

With respect to claim 29, Jefferson discloses an accessory support assembly 18 for carrying the cargo carrier assembly and securing the cargo carrier assembly to an accessory receiver assembly 14 secured to a vehicle (figure 1, column 2, lines 56-60).

With respect to claim 31, Jefferson discloses an accessory support assembly 18 for carrying the cargo carrier assembly and securing the cargo carrier assembly to an accessory receiver assembly 14 secured to a vehicle (figure 1, column 2, lines 56-60).

With respect to claim 21, the accessory support assembly comprises a mounting post 20 and an accessory mounting bracket at 14 having mounting apertures aligned with platform mounting apertures at 24 (figure 1).

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Blower (US 3,741,132). Blower discloses a modular cargo carrier assembly with a cargo container 11 connectable to a vehicle, with a bottom 19 and a container sidewall 16 extending upwardly from a periphery of the bottom. The bottom and container sidewall define an interior compartment. A platform comprising a floor at 12 and a platform side wall at 27 extending upwardly from the floor also has a shoulder member 31 and defines a receiver portion adapted to nestingly support the cargo container thereon. A latch at 44 including a catch member 39 is attached to the sidewall of the cargo container to engage with the shoulder member 31 to secure the container to the platform side wall.

With respect to claim 2 to the extent it is understood, the cargo container bottom periphery defines an exterior dimension less than the exterior dimension of the cargo container side wall periphery, whereby the container side wall exterior surface and the platform side wall exterior surface are substantially coplanar when the platform is nestingly supporting the cargo container (figure 1).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 4-6, 8, 9, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson (US 4,260,085) in view of Blower (US 3,741,132).

Jefferson discloses a cargo container 40 connectable to a vehicle with a bottom under 79 (figure 4) and a container side wall extending upwardly from a periphery of the bottom, and the bottom and container side wall defining an interior compartment. A platform comprising a floor 28 and a platform side wall 30 extending upwardly from a periphery of said floor define a receiver portion adapted to nestingly support the cargo container thereon. Jefferson does not disclose a shoulder member engaging a catch member on the platform. Blower teaches a container attached to a platform, wherein the platform has a shoulder member 31. A latch at 44 has a catch member attaching to the shoulder at 39 (figure 7) to secure the container to the platform side wall. It would

have been obvious to one of ordinary skill in the art at the time of invention to include a shoulder member and a latch member on the container and platform assembly of Jefferson, in order to more quickly and easily attach and remove the container from the platform.

With respect to claim 2, the primary reference Jefferson discloses that the cargo container bottom periphery of Jefferson defines an exterior dimension less than the exterior dimension of the cargo container side wall periphery, whereby the container side wall exterior surface and the platform side wall exterior surface are substantially coplanar when the platform is nestingly supporting the cargo container (figure 3, figure 4).

With respect to claim 4, the primary reference Jefferson discloses that the cargo container includes a projection at 36 and 38 extending outwardly from the container bottom periphery.

With respect to claim 5, the primary reference Jefferson discloses that The platform includes a slot at 36 and 38 aligned with and adapted to matingly engage the cargo container portion when the platform is nestingly supporting the cargo container (figure 4, figure 3; column 3, lines 4-7).

With respect to claim 6, the primary reference Jefferson discloses that the slots at 36 and 38 define an opening extending substantially through the platform side wall.

With respect to claim 8, the primary reference Jefferson discloses that the platform and cargo container further include an aligned drainage aperture for selective fluid communication (figure 3, figure 4, column 3 lines 50-66).

With respect to claim 9, the primary reference Jefferson discloses that the cargo container further includes a cover 46 attached to an upper end of the container side wall (figure 4).

With respect to claim 16, Jefferson discloses the structure of claim 14, but does not teach a latch for securing the container to the platform side wall. Blower teaches a container attached to a platform. A latch at 44 has a catch member attaching to the platform at 39 (figure 7) to secure the container to the platform side wall. It would have been obvious to one of ordinary skill in the art at the time of invention to include a a latch member on the container and platform assembly of Jefferson, in order to more quickly and easily attach and remove the container form the platform.

With respect to claim 19, the primary reference Jefferson discloses that the slots at 36 and 38 define an opening extending substantially through the platform side wall.

10. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blower (US 3,741,132). Blower discloses the structure of claim 1, but does not disclose that the cargo container has a projection extending outwardly from the container bottom periphery. Instead, blower discloses that the container bottom periphery has a slot 29' into which a projection 30' extends (figure 10). It would have been obvious to one of ordinary skill in the art at the time of invention to switch the positions of the projection and slot of Blower, and have a projection extending outwardly form a container bottom periphery, in order to secure the container to the platform sidewall.

With respect to claim 5, Blower as modified would have the slot 29'in the former projection 30' position, so the platform would have a slot aligned with and adapted to

engage the cargo container projection when the platform is nesting supporting the cargo container.

With respect to claim 6, Blower as modified has a slot 30' defining an opening extending substantially through a side wall (figure 10).

11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson (US 4,260,085) in view of Mills (US 6,467,779). Jefferson discloses the structure of claim 22, but does not disclose that the cargo container 40 has at least one wheel on a side wall or bottom. Mills teaches a cargo container with wheels on a sidewall. It would have been obvious to one of ordinary skill in the art at the time of invention to include wheels on the portable cargo container of Jefferson, in order to more easily maneuver the container when it is not attached to the platform.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson (US 4,260,085) in view of Blower (US 3,741,132), and further in view of Mills (US 6,467,779). Jefferson as modified discloses the structure of claim 22, but does not disclose that the cargo container 40 has at least one wheel on a side wall or bottom. Mills teaches a cargo container with wheels on a sidewall. It would have been obvious to one of ordinary skill in the art at the time of invention to include wheels on the portable cargo container of Jefferson as modified, in order to more easily maneuver the container when it is not attached to the platform.

Allowable Subject Matter

13. Claims 13, 27, and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments with respect to the active claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mlo

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782